

REMARKS

The following remarks are submitted with the above claim amendments to be fully responsive to the final Official Action dated January 11, 2006. This response is thus timely submitted within the three-month shortened statutory period for response as extended by the three-month extension of time filed herewith. This response is also submitted along with a Request for Continued Examination. Should additional fees be required, the Commissioner is authorized to charge Kagan Binder Deposit Account No. 50-1775 and thereafter notify us of the same. Reconsideration of all outstanding grounds of the rejection and allowance of the subject application are believed in order and respectfully requested.

In the Official Action, independent claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by each of the Goode et al reference and the Pagan reference. It is submitted that presently amended independent claims 1 and 8 along with dependent claims 3-7 and 10-13 are patentably distinct from the Goode et al and Pagan references for at least the reasons set out below. Claims 14-22 have been canceled without prejudice or disclaimer as such claims have been withdrawn from consideration as directed to a non-elected invention.

In Applicant's last response, the independent claims 1 and 8 were amended to recite that what is claimed is a venous cannula. The Examiner has taken the position that only intended use was recited as to the intended functionality or use of a cannula, and that any cannula with such a capability could be read on the claims. Applicants submit that the term venous cannula is a positive limitation requiring specific patentable weight, and additionally that the prior art references to Goode et al and Pagan as relied upon by the Examiner do not have the capability to function as a venous cannula as claimed. Moreover, the amendments to claims 1 and 8 by this response clearly distinguish from the Goode et al and Pagan references as to specific positively recited functionality of a venous cannula that cannot be performed by the devices of the Goode et al or Pagan references.


In particular, claims 1 and 8 are amended to recite that the apertures of the venous cannula comprise inlets that provide for fluid flow from outside the cannula to the lumen

provided running through the venous cannula. Such apertures, as described in the subject application, permit fluid, such as blood, to flow into the cannula for transport through the lumen and out of a body, such as for example, for blood perfusion.

The devices of the Goode et al and Pagan references do not and can not perform such function. According to the Goode et al reference, a coating material 40 is provided covering the relieved portion 14 in all cases. In particular, a polyester tube 41 is described for structural reasons including the ability to withdrawal the rigid member, and to prevent separated tissue from passing through the apertures of the relief pattern and into passage 12 (see column 4, lines 3-21). Moreover, the object of the Goode et al device is to separate tissue from an implanted cardiac lead, which functionality does not include being an inlet for body fluid. Whereas entry of tissue and/or fluid is clearly prevented through relief apertures into passage 12, the device of Goode et al could not perform the recited functionality of the claimed venous cannula. Likewise, the device of the Pagan reference does not permit fluid flow through its slots 21A and B. As described at column 4, lines 48-60, occlusion of the slots is required, as such can be provided by the specifically noted techniques. Moreover, permitting fluid flow through the provided slots would defeat the purpose of the device to function as a tracheostomy tube. Accordingly allowance of independent claims 1 and 8 is believed proper and requested over the prior art references to Goode et al and Pagan.

Accordingly, it is submitted that presently pending claims 1, 3-8, and 10-13 are currently in condition for allowance, a notice of which is earnestly solicited. If the Examiner finds any issue remaining after consideration of this response, the Examiner is invited to contact the undersigned, at the Examiner's convenience, in order to expedite any remaining prosecution.

Dated: July 11, 2006

Respectfully Submitted,
By: 
Mark W. Binder, Reg. No. 32,642
Customer Number 33072
Phone: 651-275-9805
Facsimile: 651-351-2954